
Introduced by Senator Torlakson

January 30, 2003

An act to amend Section 33080.8 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 109, as introduced, Torlakson. Redevelopment: major audit violations.

The Community Redevelopment Law requires the Controller to send to the Attorney General, for prescribed action, a list of redevelopment agencies that have uncorrected major violations, as defined, of the redevelopment law.

This bill would characterize those major violations, instead, as major audit violations; require the Controller to send relevant documents and affidavits to the Attorney General with that list; require the agency to respond to any action filed by the Attorney General within 15 days of service; require dismissal of the action by the court, for specified reasons, to be without prejudice; require the agency to forfeit a prescribed amount to the state if the court determines after a subsequent hearing that the agency has not corrected a major audit violation; and include additional matters within the definition of a major audit violation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33080.8 of the Health and Safety Code
2 is amended to read:

1 33080.8. (a) On or before April 1 of each year, the Controller
2 shall compile a list of agencies that appear to have major *audit*
3 ~~violations of this part as defined in this section~~, based on the
4 independent financial audit reports filed with the Controller
5 pursuant to Section 33080.

6 (b) On or before June 1 of each year, for each major *audit*
7 violation of each agency identified pursuant to subdivision (a), the
8 Controller shall determine if the agency has corrected the major
9 *audit* violation. Before making this determination, the Controller
10 shall consult with each affected agency. In making this
11 determination, the Controller may request and shall receive the
12 prompt assistance of public officials and public agencies,
13 including, but not limited to, the affected agencies, counties, and
14 cities. If the Controller determines that an agency has not corrected
15 the major *audit* violation, the Controller shall send a list of those
16 ~~agencies and agencies~~, their major violations, *all relevant*
17 *documents, and the affidavits required pursuant to subdivision (d)*
18 to the Attorney General for action pursuant to this section.

19 (c) For each agency that the Controller refers to the Attorney
20 General pursuant to subdivision (b), the Controller shall notify the
21 agency and the legislative body that the agency was on the list sent
22 to the Attorney General. The Controller's notice shall inform the
23 agency and the legislative body of the duties imposed by Section
24 33080.2.

25 (d) Within 45 days of receiving the ~~list of agencies and major~~
26 ~~violations~~ *referral from the Controller* pursuant to subdivision ~~(e)~~
27 ~~(b)~~, the Attorney General shall determine whether to file an action
28 to compel the agency's compliance with this part. The time limit
29 for the Attorney General to make this determination is directory
30 and not mandatory. Any action shall be accompanied by an
31 affidavit or affidavits, *to be provided by the Controller with the*
32 *referral*, setting forth facts that demonstrate a likelihood of success
33 on the merits of the claim that the agency has a major *audit*
34 ~~violation of this part~~. The affidavit shall also certify that the agency
35 and the legislative body were informed not less than 10 days prior
36 to the date on which the action was filed. *The agency shall file a*
37 *response to any action filed by the Attorney General pursuant to*
38 *this section within 15 days of service.*

39 (e) (1) On the earliest day that the business of the court will
40 permit, but not later than ~~15~~ 45 days after the filing of an action

pursuant to this section, the court shall conduct a hearing to determine if good cause exists for believing that the agency has a major *audit* violation of this part and has not corrected that violation.

(2) If the court determines that no ~~major violation~~ *good cause* exists or that the agency had a major *audit* violation but corrected the major *audit* violation, the court shall dismiss the action.

(3) If the court determines that there is good cause for believing that the agency has a major *audit* violation ~~of this part~~ and has not corrected that major *audit* violation, the court shall immediately issue an order that prohibits the agency from doing any of the following:

(A) Encumbering any funds or expending any money derived from any source except to pay the obligations designated in subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision (e) of Section 33334.12.

(B) Adopting a redevelopment plan.

(C) Amending a redevelopment plan except to correct the major *audit* violation that is the subject of the action.

(D) Issuing, selling, offering for sale, or delivering any bonds or any other evidence of indebtedness.

(E) Incurring any indebtedness.

(f) In a case that is subject to paragraph (3) of subdivision (e), the court shall also set a hearing on the matter within ~~30~~ 60 days.

(g) If, on the basis of that subsequent hearing, the court determines that the agency has a major *audit* violation and has not corrected that violation, the court shall order the agency to comply with this part within 30 days, *and order the agency to forfeit to the state no more than:*

(1) *Two thousand dollars (\$2,000) in the case of a community redevelopment agency with a total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000) as reported in the Controller's annual financial reports.*

(2) *Five thousand dollars (\$5,000) in the case of a community redevelopment agency with a total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000) but less than two hundred fifty thousand dollars (\$250,000) as reported in the Controller's annual financial reports.*

(3) *Ten thousand dollars (\$10,000) in the case of a community redevelopment agency with a total revenue, in the prior year, of at*

1 *least two hundred fifty thousand dollars (\$250,000) as reported in*
2 *the Controller's annual financial reports. The*

3 *(h) The order issued by the court pursuant to paragraph (3) of*
4 *subdivision (e) shall continue in effect until the court determines*
5 *that the agency has corrected the major audit violation. If the court*
6 *determines that the agency has corrected the major audit violation,*
7 *the court may dissolve its order issued pursuant to paragraph (3)*
8 *of subdivision (e) at any time.*

9 ~~(h)~~

10 *(i) An action filed pursuant to this section to compel an agency*
11 *to comply with this part is in addition to any other remedy, and is*
12 *not an exclusive means to compel compliance.*

13 ~~(i)~~

14 *(j) As used in this section, "major audit violation" means that,*
15 *for the fiscal year in question, an agency did not:*

16 *(1) File an independent financial audit report that substantially*
17 *conforms with the requirements of subdivision (a) of Section*
18 *33080.1.*

19 *(2) File a fiscal statement that includes substantially all of the*
20 *information required by Section 33080.5.*

21 *(3) Establish time limits, as required by Section 33333.6.*

22 *(4) Deposit all required tax increment revenues directly into the*
23 *Low and Moderate Income Housing Fund upon receipt, as*
24 *required by Section 33334.3, 33334.6, 33487, or 33492.16.*

25 *(5) Establish a Low and Moderate Income Housing Fund, as*
26 *required by subdivision (a) of Section 33334.3.*

27 ~~(5)~~

28 *(6) Accrue interest earned by the Low and Moderate Income*
29 *Housing Fund to that fund, as required by subdivision (b) of*
30 *Section 33334.3.*

31 ~~(6)~~

32 *(7) Determine that the planning and administrative costs*
33 *charged to the Low and Moderate Income Housing Fund are*
34 *necessary for the production, improvement, or preservation of low-*
35 *and moderate-income housing, as required by subdivision (d) of*
36 *Section 33334.3.*

37 *(8) Initiate development of housing on real property acquired*
38 *using moneys from the Low and Moderate Income Housing Fund*
39 *or sell the property, as required by Section 33334.16.*

40 ~~(7)~~

1 (9) Adopt an implementation plan, as required by Section
2 33490.

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